

THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON

UNITED STATES OF AMERICA,	:	
Plaintiff,	:	
v.	:	Case No. 3:16-cr-148
NICHOLAS GAY,	:	Judge Walter H. Rice
Defendant.	:	

ORDER OVERRULING MOTION FOR COMPASSIONATE RELEASE OF
DEFENDANT NICHOLAS GAY (DOC. #45) AS MOOT GIVEN
DEFENDANT IS NO LONGER INCARCERATED

Before the Court is the Motion for Compassionate Release of Defendant Nicholas Gay. (Doc. #45). On February 12, 2018, Defendant was sentenced to 120 months imprisonment after pleading guilty to one count from the Indictment. (Judgment, Doc. #37, citing Indictment, Doc. #15). On December 2, 2021, Defendant filed the Motion under 18 U.S.C. § 3582(c)(1)(A), as amended by the Formerly Incarcerated Reenter Society Transformed Safely Transitioning Every Person Act ("First Step") Act of 2018, Pub. L. 115-391, 132 Stat. 5194. While the Motion was pending, Defendant was released on May 16, 2024.¹ A case becomes moot if "the issues presented are no longer 'live' or the parties lack a legally cognizable interest in the outcome." *Murphy v. Hunt*, 455 U.S. 478, 481 (1984) (citation omitted). A motion for compassionate release seeks relief not

¹ https://www.bop.gov/mobile/find_inmate/index.jsp#inmate_results (last accessed Jul. 1, 2024).

from the judgment *in toto*, but from the confinement imposed as part of the judgment. “When a prisoner is released from custody, the motion for compassionate release becomes moot because there is no further relief this Court can provide[,]” *United States v. Sanchez*, No. 16-cr-2077, 2021 WL 5999764, *1 (S.D. Cal. Dec. 17, 2021) (collecting cases), and there is no longer a “live” and redressable issue pending before the Court. *See, e.g., United States v. Hernandez*, 845 F. App'x 921, 921 (11th Cir. 2021) (*per curiam*) (“Completion of a prison term moots a challenge to the term of confinement.”).

As (Defendant) has completed his term of confinement, his Motion no longer presents a live case or controversy, and the Court is without jurisdiction to hear it. U.S. Const. art. III § 2. Accordingly, the Motion is OVERRULED AS MOOT.²

The captioned case remains terminated upon the docket records of the United States District Court for the Southern District of Ohio, Western Division, at Dayton.

IT IS SO ORDERED.

July 1, 2024



WALTER H. RICE, JUDGE
UNITED STATES DISTRICT COURT

² Also, the Court, having considered the factors for granting compassionate release set forth in *United States v. Tomez*, 990 F.3d 500, 502 (6th Cir. 2021), concludes that Defendant would not have been eligible for release while he was incarcerated. The only verifiable health condition alleged by Defendant is high blood pressure. While high blood pressure does put an individual at increased risk of contracting COVID-19, Defendant does not claim that the condition was not controlled with the medication he takes, and courts have concluded that high blood pressure, without more, is not a health condition so severe as to be an extraordinary and compelling reason for release. *United States v. Sattar*, 467 F. Supp. 3d 152, 154-55 (S.D.N.Y. 2020); *United States v. Kibby*, No. 2:19-cr-179, 2021 WL 266328, *2, 4 (S.D. Ohio Jan. 27, 2021) (Graham, J.).